IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2498 OF 2006

Badrinath Nandkishore Ladda & Anr. ...Petitioners
V/s.
The State of Maharashtra ...Respondent

Mr.Umesh Mankapure for Petitioners.
Mr.Y.S. Shinde APP for the State.

CORAM : V.M. KANADE, J.
DATED : 4th OCTOBER, 2007.

P.C:-

1. Heard learned counsel for Petitioners and learned APP for the State.

2. The Petitioners are aggrieved by the order dated 16th October, 2006 passed by the learned Chief Judicial Magistrate, Sangli in application below Ex.38 in Regular Criminal Case No.240 of 2006.

3. Petitioner No.1 was a Chairman of Hanuman Nagrik Sahakari Path Sanstha Ltd., Sangli. and Petitioner No.2 was a Clerk in the said Sanstha. F.I.R. was registered by one Balasaheb Parsharam Daingade against the Petitioners. Pursuant to the said F.I.R., investigation was made by the police and chargesheet was filed against the Petitioners. Original Complainant filed an application after chargesheet was filed stating that he wanted to produce original copy of audit report. An objection was raised by the Petitioners hereby

to the production of original audit report by the original Complainant on the ground that he had no locus to produce said document. The Trial Court overruled said objection and allowed the application filed by the original Complainant and permitted the original Complainant to produce audit report on record. Being aggrieved by the said order, present petition has been filed. Respondent/State has filed affidavit stating that zerox copy of the audit report was submitted to the Assistant Public Prosecutor. He submitted said xerox was not annexed to the chargesheet.

4. In my view, original Complainant, obviously, has no locus to file an application for bringing on record any additional document which is not filed alongwith chargesheet. Therefore, the Trial Court has clearly erred in allowing the application filed by the original Complainant. Impugned order, therefore, is set aside.

5. It is further clarified that prosecution is entitled to produce any document with leave of the Court. Such such application is preferred by the prosecution, the Trial Court to decide the application in accordance with law. With this clarification, Criminal Writ Petition is allowed in the above terms.

V.M. KANADE, J.